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असाधारण
EXTRAORDINARY

भाग II—खण्ड 2

PART II—Section 2

प्राधिकार से प्रकाशित

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन
के रूप में रखा जा सके।

Separate paging is given to this Part in order that it may be filed
as a separate compilation

LOK SABHA

The following Bills were introduced in Lok Sabha on 20th November, 1987.

BILL No. 113 OF 1987

A Bill to provide for utilisation of human resources in the best interests of the nation and for matters connected therewith

Be it enacted by Parliament in the Thirty-eighth Year of the Republic of India as follows:—

1. (1) This Act may be called the Human Resources (Utilisation) Act, 1987.

Short
title, ex-
tent and
commence-
ment.

(2) It extends to the whole of India.

(3) It shall come into force at once.

2. (1) Any person, who performs any work, as mentioned in the Schedule, shall be awarded a certificate of merit by the Central Government.

Certifi-
cate of
merit.

(2) The Central Government shall constitute as many committees as may be necessary for awarding the certificate of merit under sub-section (1).

(3) Each committee shall consist of such number of members, having such qualifications, as the Central Government may, by notification in the Official Gazette, specify.

Preference in the matter of employment.

3. (1) Any person, who has been awarded five or more certificates of merit under section 2, shall be given preference in the matter of employment under the Central Government or Union territory administration and in any corporation or undertaking under the control of the Central Government or Union territory administration.

(2) Any person, who has been awarded five or more certificates of merit after his joining the service under the Central Government or Union territory administration, shall be given preference in the matter of promotion to the next higher grade.

Students to get loan and land on preferential basis.

4. Any student, who has been awarded two or more certificates of merit, while pursuing his education, shall be entitled to get loan and allotment of land on preferential basis for starting business.

Power to make rules.

5. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(2) Every rule made under this section shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

THE SCHEDULE

(See section 2)

1. Making ten persons literate from amongst ten illiterate persons near his place of residence.
2. Helping atleast ten children, especially those belonging to backward classes or economically weaker sections of society, admitted in schools.
3. Plantation of atleast twenty trees.
4. Helping in registration of atleast ten cases of hoarding or corruption, black-marketing, evasion of income-tax, sales tax, customs-duty, excise duty, etc.
5. Developing of atleast one acre barren land into fertile land.
6. Performance of atleast five works connected with flood/drought relief measures or soil erosion and afforestation.
7. Performance of atleast five works connected with maintenance of roads, wells, ponds, canals, etc. or active participation in the construction of schools, hospitals, etc.
8. Helping in initiation of action against inefficient and corrupt Government officials in ten cases.
9. Performance of ten commendable works of patriotism and for promotion of unity and integrity of the nation.
10. Performance of five works connected with maintenance of communal harmony or helping in initiation of action against terrorists and against those who preach communal hatred.
11. Making complaints to the authorities against inefficient teachers and those who make money by giving private tuitions.
12. Helping in registration of ten cases of child marriage, dowry and other social evils.
13. Making publicity in favour of family planning and helping in getting fifteen cases for family planning operations.
14. Showing right path to the anti-social and anti-national elements.
15. Helping ten cases to stop begging or prostitution.
16. Helping ten cases for improved agricultural operations and increased productivity.
17. Helping in curing of ten sick persons.
18. Providing excellent contribution and making propaganda for the progressive use of Hindi.
19. Development and promotion of yoga, spiritualism, discipline, ethics and morality among citizens.

STATEMENT OF OBJECTS AND REASONS

Today, there are serious challenges to the unity and integrity of the country, communal harmony and brotherhood. Corruption is rampant in the country. Good conduct, patriotism, love for the country and discipline are rarely seen. Vested interests are dominating everywhere. Young generation has become frustrated, disappointed, indisciplined, confused and misguided. A number of serious problems such as increase in population, unemployment, illiteracy, non-channelisation of the benefits of the five year plans to the common man, lack of health services, lack of means of transport and communication, social evils, economic imbalances and exploitation of people, etc. have assumed alarming proportions. The need of the hour is to channelise the youth force in a proper direction where it could be used and guided properly for the nation building tasks. The Bill provides incentives for the youth, especially those who pursue employment under Government.

Hence this Bill.

NEW DELHI;

SANTOSH KUMAR SINGH

July 28, 1987.

FINANCIAL MEMORANDUM

Clause 2 of the Bill provides for the constitution of committees by the Central Government for awarding the certificates of merit. There will be some expenditure on the working of the committees and some staff may have to be employed for the purpose. The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India. It is likely to involve a recurring expenditure of about rupees ten lakhs per annum.

It is also likely to involve a non-recurring expenditure of about rupees two lakhs.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 5 of the Bill gives power to the Central Government to make rules for carrying out the purposes of the Bill. The matters in regard to which the rules have to be made are matters of detail only. The delegation of legislative power is, therefore, of a normal character.

BILL No. 96 OF 1987

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Thirty-eighth Year of the Republic of India as follows:—

Short
title and
commence-
ment.

1. (1) This Act may be called the Constitution (Amendment) Act, 1987.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Insertion
of new
article
30A.

2. After article 30 of the Constitution, the following article shall be inserted, namely:—

State to
provide
free and
compul-
sory edu-
cation.

“30A. The State shall provide free and compulsory education to all children upto the secondary school stage:

Provided that the mother tongue of the child shall be the medium of instruction at the primary school stage:

Provided further that the mother tongue shall be taught as the first language upto secondary school stage.

*Explanation:—*For the purposes of this article, mother tongue shall mean and include a language recognised as a modern literary language by the Sahitya Akademi set up by the Union Government.”

STATEMENT OF OBJECTS AND REASONS

Article 45 of the Constitution calls upon the state to provide for free and compulsory education for all children upto the age of fourteen years. However, as a Directive principle of State Policy it is not justiciable and, therefore, unenforceable. The result is that, since independence, illiteracy has increased in the country. The children belonging to the economically weaker sections of the society are deprived of education because it is neither free nor compulsory. It is, therefore, desirable that free and compulsory education be recognised as a fundamental right so as to be enforceable by law.

The right of the child to be taught his mother tongue as first language and other subjects through the medium of the mother tongue has been ignored in educational planning and practice. This particularly affects the children belonging to linguistic minorities in any State. The situation is not only unjust, unfair and discriminatory, but also militates against the national interest because the creativity of a child can be fully tapped only through the mother tongue.

Hence this Bill.

NEW DELHI;
July 31, 1987.

SYED SHAHABUDDIN

FINANCIAL MEMORANDUM

Clause 2 of the Bill provides for the State to provide free and compulsory education to all children upto the secondary school stage. It also provides that the mother tongue of the child shall be the medium of instruction at the primary school stage and that the mother tongue shall be taught as the first language upto secondary school stage. In view of this more teachers shall have to be appointed. In respect of schools in States, the respective State Governments would incur the expenditure. However, in respect of schools in Union territories and schools in other places run by the Central Government, the Central Government would have to incur expenditure from the Consolidated Fund of India. It is likely to involve a recurring expenditure of about rupees fifty crores per annum.

It is also likely to involve a non-recurring expenditure of about rupees ten crores.

BILL NO. 102 OF 1987

A Bill further to amend the Administrative Tribunals Act, 1985.

BE it enacted by Parliament in the Thirty-eighth Year of the Republic of India as follows:—

1. This Act may be called the Administrative Tribunals (Amendment) Act, 1987.

Short
title.

13 of 1985.

2. After section 2 of the Administrative Tribunals Act, 1985, the following section shall be inserted and shall be deemed to have always been inserted, namely:—

Insertion
of new
section
2A.

14 of 1947.

“2A. Notwithstanding anything contained in any other law for the time being in force, the provisions of the Act shall also apply to all employees, who are not covered by the provisions of the Industrial Disputes Act, 1947, working in the nationalised banks, the State Bank of India and its associate Banks and also other financial institutions under the control of the Central Government or any corporation owned or controlled by the Central Government.”.

Provi-
sions of
the Act
to apply
to bank
employ-
ees, etc.

STATEMENT OF OBJECTS AND REASONS

The establishment of Administrative Tribunals has proved to be effective. The system provides quicker justice to the satisfaction of the employees. It has reduced the burden of ordinary law courts besides reducing the cost of litigation. A large number of officers and employees of nationalised banks including the State Bank of India and its associate banks are involved in litigation at heavy cost to get justice from ordinary courts. Besides in the domestic enquiries the principle of equality and natural justice gets lost or evaded by the enquiring authorities. The present system is causing great dissatisfaction among the officers of the nationalised banks and other financial institutions.

The present Bill seeks to bring these persons in the banking industry within the purvie wof the Act.

NEW DELHI;
August 11, 1987.

K. RAMAMURTHY

BILL NO. 99 OF 1987

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Thirty-eighth Year of the Republic of India as follows:—

1. (1) This Act may be called the Constitution (Amendment) Act, 1987.

Short
title

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

and
commence-
ment.

2. In article 276 of the Constitution in clause (2), for the words "two hundred and fifty rupees per annum", the words "five thousand rupees per annum" shall be substituted.

Amend-
ment of
article
276.

STATEMENT OF OBJECTS AND REASONS

It has become the subject of bitter criticism that the professional tax collected from big industrialists and small businessmen like tailors and shopkeepers is the same, i.e. Rs. 250/- per annum. The public opinion is that the professional tax should be more for big industrialists. But according to the existing provision in article 276(2) of the Constitution, it cannot exceed Rs. 250/- per annum in any case. This limit of Rs. 250/- is there since the commencement of the Constitution. The value of the rupee has gone down considerably and, therefore, in the present circumstances, this limit of professional tax must be increased atleast upto Rs. 5,000/- per annum.

Hence this Bill.

NEW DELHI;

S. G. GHOLAP

August 11, 1987.

BILL NO. 107 OF 1987

A Bill to encourage trade unionism among the employees and to provide for collective bargaining between the employers and representative trade unions of employees.

BE it enacted by Parliament in the Thirty-eighth Year of the Republic of India as follows:—

1. (1) This Act may be called the Recognition of Trade Unions Act, 1987.

(2) It shall come into force at once.

2. In this Act, unless the context otherwise requires,—

(a) “appropriate Government” means, in relation to trade unions whose objects are not confined to one State, the Central Government and in relation to other trade unions, the State Government;

(b) “employer” means—

(i) in relation to an industry carried on by or under the authority of any department of the Central Government or a State Government, the authority prescribed in this behalf or where no authority is prescribed, the head of the department concerned;

Short
title
and
commence-
ment.

Defini-
tions.

(ii) in relation to an industry carried on on behalf of a local authority, the Chief Executive Officer of that authority; and

(iii) in private industry, any employer or association of employers;

(c) "industry" means any business, trade, undertaking, manufacture or calling of employers and includes any calling, service, employment, handicraft or industrial occupation or avocation of workmen.

Explanation.—For the purposes of recognition, "industry" may mean either a single industrial establishment or all the industrial establishments in a particular local area to be defined by the appropriate Government provided that the total number of employees engaged in the establishment or in the industry in the local area is at least fifty.

Trade
Union
Autho-
rity.

3. There shall be set up under this Act a Trade Union Authority by each appropriate Government consisting of one or three non-official persons with wide experience of industrial relations.

Recogni-
tion of
trade
unions.

4. Any trade union registered under the Indian Trade Unions Act, 1926, shall be entitled to apply to the Trade Union Authority set up under this Act for recognition as the sole bargaining agent of the employees in a particular industry subject to the following conditions:—

16 of 1926.

(a) that it has a minimum membership of 15 per cent. of the total number of employees engaged in that industry;

(b) that among the various trade unions in that industry it enjoys the support of the largest number of employees in that industry;

(c) that it holds its annual elections democratically and in such a manner that the interval between any two elections is not more than 15 months;

(d) that its managing committee meets at least once in three months;

(e) that its membership is open to all employees in the industry concerned;

(f) that it has a minimum membership fee of one rupee per month;

(g) that its constitution has a mandatory provision for the holding of a ballot for declaring a strike and for collecting a strike fund before a strike is undertaken.

Certi-
ficate of
recogni-
tion

5. On receipt of the application for recognition, the Trade Union Authority shall ascertain whether the union has complied with all the conditions laid down in section 4 and, after satisfying itself, grant the union a certificate of recognition for that particular industry and, in case there is more than one union which has complied with the conditions, to the union which has the largest membership in that industry.

6. If the difference in the membership of the two largest unions applying for recognition is less than 5 per cent. of the total membership of the union held to be the largest by the Authority, it shall be open to the other union to ask for a ballot for settling the question of their representative character.

Ballot.

7. The ballot shall be held by the Trade Union Authority within a reasonable time and all employees who have not opted out from trade union membership under this Act shall be entitled to vote in the ballot.

Voting.

8. The trade union subscription, which shall be at least one rupee per month but may be upto 1 per cent of the net monthly earnings of an employee, shall be deducted by the management from the salary of the employee and the proceeds thereof paid to Union of the employee's own choice:

Subscription for trade union membership.

Provided that at least 5 per cent. of the employees of the organisation are members of that union:

Provided further that the subscription of the employees who have informed the appropriate Government of their decision to opt out from trade union membership shall not be so deducted.

9. The recognition of trade union shall be for a period of two years unless withdrawn earlier by the Trade Union Authority for violation of any of the conditions mentioned in section 4.

Period of recognition.

10. The recognition may be renewed if it is found by the Trade Union Authority that the union continues to comply with all the conditions mentioned in sections 4 and 5.

Renewal of recognition.

11. The recognised trade union shall be entitled to negotiate with the employers in respect of all matters connected with the employment or non-employment or the problems of the employment or the conditions of labour of an area in all its particulars and the employers shall not refuse to reply to letters sent by the said trade union or to hold discussions with the representatives of that union within a reasonable time on a representation being made by that union.

Recognised trade unions to negotiate with employers.

STATEMENT OF OBJECTS AND REASONS

After a century of industrial growth, the condition of the trade union movement in this country remains very anaemic. There are divisions within the ranks of the working class, the membership of trade unions is small, subscriptions low and their financial base very weak. There are interminable disputes among the rival unions about their representative character. Loud protests are daily being voiced against the refusal by the employers, including managements in the public sector and Government departments, to extend recognition to trade unions and treat them as sole bargaining agents for particular type of industries.

This Bill seeks to provide for the compulsory recognition of unions as the sole bargaining agent provided they fulfil certain specified conditions. In case of dispute, it also provides for settling the question of the representative character of rival unions through ballot. The provisions of the Bill are designed to encourage healthy trade unionism in the country.

NEW DELHI;

MADHU DANDAVATE

October 15, 1987.

FINANCIAL MEMORANDUM

The expenditure on each Trade Union Authority envisaged under clause 3 will be approximately rupees ten lakhs per year.

BILL No. 106 OF 1987

A Bill to make provisions for enabling blind persons to secure employment and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Thirty-eighth Year of the Republic of India as follows:—

1. (1) This Act may be called the Blind Persons (Employment) Act, 1987.

Short
title,
extent
and com-
mence-
ment.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint and different dates may be appointed for different States.

2. In this Act, unless the context otherwise requires,—

Defini-
tions.

(a) “appropriate Government” means,—

(i) the Central Government in relation to:—

(1) any establishment of any railway, major port, mine or oil field, or any establishment owned, controlled or managed by the Central Government or a department of the Central Government; or

(2) a company in which not less than fifty-one per cent. of the share capital is held by the Central Government or partly by the Central Government and partly by one or more State Governments; or

(3) a corporation (including a co-operative society) established by or under a Central Act or owned, controlled or managed by the Central Government.

(ii) in relation to any other establishment, the Government of the State in which that other establishment is situated;

(b) "blind person" means a person who is blind according to the following standards,—

(i) total absence of sight; or

(ii) visual equity (with correcting lenses) not exceeding 20/200 or 6/60 (snellen) in the better eye; or

(iii) angle of vision subtending 200 or less in the better eye;

(c) "chief registering authority" means the authority appointed under section 6;

(d) "employer" means any person who employs fifty or more persons to do any work in an establishment for remuneration and includes any person entrusted with the supervision and control of employees in such establishment;

(e) "establishment" means—

(i) any office; or

(ii) any place where any industry, trade, business or occupation is carried on;

(f) "prescribed" means prescribed by rules made under this Act;

(g) "register" means the register maintained under section 7;

(h) "registering authority" means the authority appointed under section 5.

Act not to apply in relation to certain employments.

3. This Act shall not apply in relation to—

(a) any employment in agriculture (including horticulture);

(b) any employment in domestic service;

(c) any employment the total duration of which is less than three months;

(d) any employment which carries remuneration of less than rupees one hundred per month.

4. As from the commencement of this Act, every employer shall reserve not less than three per cent. of the vacancies occurring in any year in any employment in the establishment to be filled in from among the blind persons who are registered under this Act.

Employers to reserve certain percentage of vacancies in employments.

5. The appropriate Government may, by notification in the Official Gazette, appoint as many authorities as it deems necessary as Registering Authorities for the purpose of registration of blind persons and may, in the notification, define the area within which each such Authority shall exercise jurisdiction.

Appointment of registering authorities.

6. Without prejudice to the provisions of section 5, the appropriate Government may, by notification in the Official Gazette, appoint such authority, as it deems fit, as the Chief Registering Authority for the purposes of this Act.

Appointment of Chief Registering Authority.

7. (1) Any blind person possessing the prescribed qualifications and desiring to get himself registered under this Act shall make an application, in such form and containing such particulars as may be prescribed, to the registering authority within whose jurisdiction he resides.

Registration of blind persons.

(2) On receipt of an application under sub-section (1), the Registering Authority may cause such enquiries, as it deems necessary, to be made and if it is satisfied that the applicant is a blind person and possesses the prescribed qualifications, register his name in a register and issue to the applicant a certificate of registration in the prescribed form, or an identity card.

(3) The Register shall be maintained by the Registering Authority in such form and in such manner as may be prescribed.

8. Every Registering Authority in a State shall submit to the Chief Registering Authority of the State such periodical returns (including a list of the blind persons registered with the Registering Authority) within such intervals and with such particulars as may be prescribed.

Registering authorities to submit periodical returns to the Chief Registering Authority.

9. Every employer shall before filling up any vacancy in any establishment shall notify that vacancy to the Registering Authority within whose jurisdiction that establishment is situated.

Employers to notify vacancies to the Registering Authorities.

Regis-
tering
author-
ity to
furnish
list of
blind
persons to
emp-
loyers.

10. (1) As soon as may be after the receipt of the notification of the vacancies under section 9, the Registering Authority shall furnish a list of blind persons registered with it, containing such particulars as may be prescribed, to the employer who has notified the vacancies under that section and thereupon the employer shall, within the prescribed period, fill up the percentage of vacancies prescribed in section 4 by appointing such of the blind persons as he considers suitable and inform in writing the fact of such appointment to the Registering Authority.

(2) No blind person shall be rejected on the ground that he cannot perform a particular job and in case a Board of Experts certifies that he can do so with the help of modern technological devices, in that event, it shall be the responsibility of the appropriate Government to provide such aids on loan for as long as the concerned blind person is in employment who may make use of the devices lent to him.

(3) The appropriate Government shall appoint a Board of Experts who shall, in each case, determine whether the blind person can perform a job with the help of modern devices and its decision shall be final and binding both on the appropriate Government and the employer.

(4) Where any Registering Authority in a State has no suitable blind persons registered with it, it shall intimate the fact to the Chief Registering Authority of the State whereupon the Chief Registering Authority shall forward to the Registering Authority the name of any blind person entered in the records maintained by the Chief Registering Authority and thereupon the provisions of sub-section (1) shall apply for filling up the vacancy by appointing the blind person.

Disputes
or differ-
ences be-
tween the
employ-
er and
the regis-
tering
authority
to be
referred
to the
pres-
cribed
authority.

11. If any dispute or difference arises between the employer and the Registering Authority as to the suitability of a blind person for appointment or as to whether such person is a blind person or not, such dispute or difference shall be referred by the appropriate Government to the prescribed authority whose decision thereon shall be final.

Removal
of names
of blind
persons
from
the
register.

12. When any blind person has been appointed to fill up any vacancy in an establishment under section 10, the Registering Authority or, as the case may be, the Chief Registering Authority, shall remove the name of such person from the register or other records after a period of one year from the date of his appointment.

Registra-
tion of
blind
persons in
certain
cases.

13. Where after the appointment of any blind person in any establishment under section 10 such person has been discharged by the employer, nothing in this Act shall preclude such person to get himself registered again with the Registering Authority in accordance with the provisions of this Act.

14. (1) Where in any year any vacancies in an establishment reserved under section 4 cannot be filled up either due to the non-availability of suitable blind persons or for any other sufficient reason, such vacancies may be filled up by the employer by appointment of persons who are not blind, but the number of such vacancies shall be carried forward to the succeeding year and so on upto the end of the fourth year:

Vacancies
to be
carried
forward.

Provided that the aggregate of the vacancies carried forward to any year and the vacancies reserved under section 4 in that year shall not yet exceed five per cent. of the vacancies (both reserved and unreserved) in that year.

(2) For the purpose of sub-section (1), a blind person shall not be deemed to be unsuitable to fill up the vacancy unless a certificate in this behalf is obtained by the employer from the Registering Authority.

15. (1) Every employer shall maintain such records giving such particulars of the blind persons in such manner as may be prescribed.

Employers to
maintain
records.

(2) The records maintained under sub-section (1) shall be open to inspection at all reasonable hours by such persons as may be authorised in this behalf by general or special order by the appropriate Government.

16. The Central Government shall appoint a National Advisory Council and the appropriate Governments shall appoint their own Advisory Councils to advise them on all problems arising from the implementation of this Act.

National
Advisory
Council.

17. The Central Government or the State Government, as the case may be, shall give unemployment allowance of rupees three hundred per month to every blind person, whose name appears in the register maintained under section 7 of this Act till such time he is given an employment.

Unemployment
Allowance.

18. (1) If any employer contravenes the provisions of section 4 or section 9 or section 10 of this Act, he shall be punishable with imprisonment for a term which may extend to three months or with fine which may extend to two thousand rupees, or with both.

Penalty.

(2) If any employer contravenes the provisions of sub-section (1) of section 15 or obstructs or causes obstruction to any officer authorised to inspect the records under sub-section (2) of that section, he shall be punishable with fine which may extend to one thousand rupees.

19. (1) Where an offence under this Act has been committed by a company, every person who, at the time the offence was committed, was incharge of, and was responsible to the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Offences
by
companies.

Provided that nothing contained in this sub-section shall render any such person liable to any punishment under this Act if he proves that the offence was committed without his knowledge and that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

(a) “company” means any body corporate and includes a firm or other association of individuals; and

(b) “director”, in relation to a firm, means a partner in the firm.

Offences
by Gov-
ernment
depart-
ments.

20. Where an offence under this Act has been committed by any department of Government, the head of such department shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this section shall render the head of such department liable to any punishment under this Act, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

Power to
make
rules.

21. (1) The Central Government may, after consultation with the National Advisory Council referred to in section 16, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the qualifications which a blind person shall possess to entitle him to make an application under section 7;

(b) the form in which an application under section 7 shall be made and the particulars which such application shall contain;

(c) the form in which and the manner in which the register shall be maintained under section 7;

(d) the returns to be submitted to the Chief Registering Authority, the intervals within which such returns shall be submitted and the particulars which such returns shall contain;

(e) the particulars which a list of blind persons furnished under sub-section (1) of section 10 shall contain and the period within which the employer shall fill up the vacancies under that sub-section;

(f) the authority to which any dispute or difference between the employer and the Registering Authority may be referred under section 11;

(g) any other matter which has to be or may be prescribed.

(3) Every rule made under this section shall be laid, as soon as may be, after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if before expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

One of the worst disabilities that a human being can suffer from is blindness. Though many blind persons are gifted with talent, they are unable to secure suitable employment.

It is, therefore, necessary that adequate job opportunities are provided to the blind so that besides suffering from physical disability, they are not forced to face unemployment.

Hence this Bill.

NEW DELHI;

October 15, 1987.

MADHU DANDAVATE

FINANCIAL MEMORANDUM

Clause 5 of the Bill provides for appointment of Registering Authorities for the purpose of registration of blind persons. Clause 6 provides for appointment of a Chief Registering Authority for the purposes of the Act. Clause 7 provides for issue of certificates of registration or identity cards to the blind and for maintenance of a register of blind persons. Clause 10(2) provides for provision of technological aids to the blind. Sub-clause 3 of clause 10 provides for the appointment of experts by the Government. Clause 16 of the Bill provides for the appointment of a National Advisory Council by the Government. Clause 17 of the Bill makes provision for giving unemployment allowance of rupees three hundred per mensem to every blind person till such time as he is given employment. Clause 21(2)(f) enables the Central Government to make rules to provide for an authority to which any dispute or difference between the employer and the Registering Authority may be referred. The Bill, therefore, if enacted, would involve expenditure from the Consolidated Fund of India.

At this stage, it is not possible to give precisely the estimate of recurring and non-recurring expenditure involved from the Consolidated Fund of India. However, it is roughly estimated to involve a recurring expenditure of rupees one crore per annum and non-recurring expenditure of rupees ten lakhs per annum.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 21 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. The matters with respect to which rules may be made are matters of administrative procedure or details. The delegation of the legislative power is, therefore, of a normal character.

BILL NO. 109 OF 1987

A Bill further to amend the Indian Penal Code.

BE it enacted by Parliament in the Thirty-eighth Year of the Republic of India as follows:—

1. (1) This Act may be called the Indian Penal Code (Amendment) Act, 1987.

Short
title
and
commence-
ment.

(2) It shall come into force at once.

45 of 1860.

2. For section 306 of the Indian Penal Code, the following section shall be substituted, namely:—

Substitu-
tion of
new sec-
tion for
section
306.

“306. If any person commits suicide or resorts to the practice of sati, whoever abets the commission of such suicide or sati, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Abetment
of
suicide
or sati.

Explanation: In this section the word “sati” means burning or burying alive the widow alongwith the dead body of her husband.”

STATEMENT OF OBJECTS AND REASONS

The mediaeval social tradition of 'Sati' has recently become alive and is being glorified by religious obscurantists. Out of the ashes of the 'Sati' emerges the mutilated dignity of Indian womanhood, as the great work of social reformers like Raja Ram Mohan Roy lies buried under the ashes.

To punish the protagonists of the barbaric 'Sati' system, provisions of section 306 of the Indian Penal Code are being used at present. However, it is necessary to make it explicitly clear that those who are responsible for the practice of 'sati' can be dealt with under section 306 of the Indian Penal Code.

The Bill seeks to achieve this objective.

NEW DELHI;
October 15, 1987.

MADHU DANDAVATE

BILL No. 110 OF 1987

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Thirty-eighth Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Amendment) Act, 1987.

Short title.

2. In article 30 of the Constitution, for clause (1), the following clause shall be substituted, namely:—

Amendment of article 30.

“(1) A minority, whether based on religion or language, shall have the right to establish and maintain an educational institution.

Right of minorities to establish and maintain educational institutions.

Explanation.—The minority shall have the right to manage its religious or linguistic affairs within the institution established by it but the conditions of service of the employees and the rules of governance of such an institution shall be the same as are applicable to educational institutions outside the purview of this article.”.

STATEMENT OF OBJECTS AND REASONS

The framers of the Constitution gave the minorities “whether based on religion or language the right to establish and administer educational institutions of their choice”.

There has been no systematic study of this—study of the working of the educational institutions established by minority community—whether or how far these educational institutions have helped in furthering the cultural interests of minorities. Under the garb of minority rights, the managements of the schools of these minority communities have claimed the right to hire and fire its employees, the right to alter their service conditions and to run the said institutions in the manner their governing bodies desire.

A number of petitions and stay orders are pending in the Supreme Court against these provisions. Rights of the employees of minority institutions all over the country have to be protected and this can be done by restricting the rights of the managements of the minority institutions to linguistic and religious matters only.

The Bill seeks to achieve this objective.

NEW DELHI;

THAMPAN THOMAS

October 13, 1987.

BILL NO. 112 OF 1987

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Thirty-eighth Year of the Republic of India as follows:—

1. (1) This Act may be called the Constitution (Amendment) Act, 1987.

Short
title and
commence-
ment.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. In the Tenth Schedule to the Constitution,—

Amend-
ment of
Tenth
Schedule.

(i) in paragraph 1, after clause (d), the following clause shall be inserted, namely:—

“(e) “political party” includes a group or an association of persons which may or may not have been registered with the Election Commission under paragraphs 3 and/or 6 of the Election Symbols (Reservation and Allotment) Order, 1968 as a political party, of whose objectives, in Election Commission’s view, specially obtained by the Chairman or the Speaker, as the case may be, for the purpose, are political in nature.”;

(ii) in paragraph 2, in sub-paragraph (1), after clause (b), the following clause shall be inserted, namely:—

“(c) if he is removed by the original political party, from its membership, under the provisions of its Constitution:

Provided that every member proposed to be removed from the membership of any original political party shall be given by such party a fair opportunity for representing his case against such removal notwithstanding that the Constitution of such original political party contains provisions or not for following principles of natural justice before removing a member from its membership.”.

STATEMENT OF OBJECTS AND REASONS

The Constitution (Fifty-second) Amendment Act, 1985 which was passed by Parliament in 1985 became one of the unique legislations of considerable impact and importance. The 'disease' of defection which spread like an epidemic in the country was sought to be permanently cured by the said Constitutional Amendment Act.

However, scrupulous politicians have their own ways of defeating the objectives of any good and reformative legislation. As per the provisions contained in the Tenth Schedule to the Constitution, an elected representative, even after his removal from the political party to which he belonged, does not incur disqualification from being an elected member. He is still free to join a group or an association of persons and pretend that the same is not a 'political party' in order to circumvent the provisions of the anti-defection law, namely, the provisions of the 52nd Constitutional Amendment.

Therefore, in order to make the anti-defection law effective and fool-proof, certain amendments are proposed to the Constitution.

The present Bill proposes to disqualify a member of either House of Parliament and the Legislature of a State if his original political party, as defined under the Tenth Schedule, removes him from its membership under its Constitution. The Bill further provides that irrespective of the fact whether the Constitution of the original political party of such member contains provisions or not for following principles of natural justice before removing a member from its membership, every member proposed to be removed shall be given a fair opportunity of representing his case against such removal.

The Bill also provides that the "political party" which a member cannot join unless by way of incurring disqualification, shall include a group or an association of persons which may or may not have been registered with the Election Commission under paragraphs 3 and/or 6 of the Election Symbols (Reservation and Allotment) Order, 1968 as a political party, whose objectives, in Election Commission's view, are political in nature.

Hence this Bill.

NEW DELHI;
October 16, 1987.

SHANTARAM NAIK

BILL No. 105 OF 1987*A Bill to prohibit the practice of Sati.*

Enacted by Parliament in the Thirty-eighth Year of the Republic of India as follows:—

- | | |
|--|--|
| 1. This Act may be called the Prohibition of Sati Act, 1987. | Short
title. |
| 2. In this Act, the word "sati" means the burning alive of the widow alongwith the dead body of her husband. | Defini-
tion. |
| 3. The performance of sati, either by force or willingness, is hereby prohibited. | Prohibi-
tion of
perfor-
mance of
sati. |
| 4. If any person performs sati, whoever abets the commission of sati, shall be punished with death or imprisonment for life. | Punish-
ment for
abetment
of sati. |
| 5. The State Governments and Union territory administrations shall ensure that no incident of sati takes place within their respective jurisdictions and no place is provided by them for constructing any monument or temple, by whatever name called, to commemorate the sati. | State to
ensure
non-
perfor-
mance of
sati. |

STATEMENT OF OBJECTS AND REASONS

The latest incident of performance of sati in Rajasthan has aroused feelings among the women of the country. This is a great dishonour and disrespect to the womanhood. It is a social evil which is prevalent in some of the backward areas of the country. The people are taking advantage of the innocence of the women.

The performance of the sati is just like punishing a woman who has murdered her husband. India has a large number of illiterate women who are ignorant of their rights and are being exploited by the men.

It is high time that there is a law to prevent the recurrence of sati.

Hence this Bill.

NEW DELHI;
October 20, 1987.

BASAVARAJESWARI

SUBHASH C. KASHYAP,
Secretary-General.